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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re:) Case No. 09-37940
)
) Chapter 11
)
) KY- 25
)
) MOTION FOR ORDER UNDER
) SECTIONS 105(a) AND 554(a)
TONY AKINSETE) AUTHORIZING THE DEBTOR-IN-
) POSSESSION TO ABANDON
) CERTAIN REAL PROPERTY AND
) SEGREGATED ACCOUNTS
)
) Hearing
) Date: 5/18/10
) Time: 9:32 a.m.
) United States Bankruptcy Court
Debtor and Debtor in Possession.) 501 I Street, 6th Fl, Ct 32
_____) Sacramento, CA

Tony Akinsete, the Debtor and Debtor-in-possession (the “Debtor”), hereby
moves this Court for an order authorizing abandonment of real property and

1 segregated accounts listed on Schedule A, which is annexed to the Declaration of
2 Tony Akinsete.

3 INTRODUCTION

4 The Debtor commenced a voluntary Chapter 11 case under Title 11 of the
5 United States Code (the "Bankruptcy Code") on August 24, 2009. The Debtor's case
6 was caused by an unprecedented downturn in the Sacramento rental market. While
7 the Debtor enjoyed some initial success in filling his apartments, the reality is that
8 some eight (8) months later the Debtor is still struggling with 30% vacancy in some
9 buildings. The Debtor was also diligent in trying to find a buyer. However, despite
10 numerous talks with investors and a reasonable marketing period, a solid offer on the
11 Debtor's properties has yet to emerge. Most offers have been merely "bottom-
12 feeding" attempts to obtain a short sale. The Debtor realizes that most of the secured
13 creditors have been extremely cooperative in allowing the Debtor use of cash
14 collateral to fund operations, while attempting to raise rent rolls. However, on April
15 22, 2010, after discussion with counsel, the Debtor filed his motion to convert to
16 Chapter 7 under the belief that this was in the best interests of all creditors. Upon
17 conversion, the Debtor still has assets to be administered. These assets are personal
18 property, one vacant lot, and a claim against the Gonzalezes that is now pending as
19 Adversary Proceeding No. 10-02113. The case may be administratively solvent and
20 a distribution to unsecured creditors may occur.

21 Upon receiving notice of the motion to convert, some creditors have contacted
22 the Debtor and asked for assistance for an orderly return of nonequity properties.
23 The Debtor agreed on the condition that an appraisal and a statement of the
24 outstanding loan balances were provided to establish that the property lacked equity.
25 That is, the secured creditor would be entitled to relief from stay under 11 U.S.C.
26 § 362(d)(1) anyway. The Debtor would further facilitate the orderly transfer of
27 books and records, segregated accounts that were subject to a lien, and assist with the
28 transfer of control to a receiver, if appropriate.

1 Section 554(a) of the Bankruptcy Code provides that “[a]fter notice and a
2 hearing the trustee may abandon any property of the estate that is burdensome to the
3 estate or that is of inconsequential value and benefit to the estate.”

4 Section 105(a) of the Bankruptcy Code provides in pertinent part, that a
5 Bankruptcy Court “may issue any order, process of judgment that is necessary or
6 appropriate to carry out the provisions of this title.”

7 The Debtors believe that each of the real properties set forth in Schedule A
8 lack equity because of the undisputed amount of secured debt associated with each
9 property. In addition, the Debtor must pay the expense of an accountant, manage the
10 properties, collect rents, pay account payables, and attempt to preserve the asset
11 without a salary. Upon conversion to Chapter 7, the Chapter 7 Trustee must take
12 over, the Debtor must cease, but the Chapter 7 Trustee must first obtain an order
13 authorizing operation of a business in Chapter 7. The Chapter 7 Trustee would likely
14 have to first retain counsel first before undergoing any of these tasks. In short,
15 unless a timely order on this motion to abandon is granted, there will be an
16 unnecessary amount of chaos and burden on the Debtor, the estate, tenants, and
17 secured creditors. Since all of the properties set forth in Schedule A lack equity, the
18 pain would be without gain. Nothing would be preserved in the estate by this futile
19 exercise. Accordingly, the Debtor believes that it is appropriate to grant the motion
20 because the properties and accounts in Schedule A are burdensome and have
21 inconsequential value to the estate.

22 WHEREFORE, the Debtor respectfully requests that the Court enter an order
23 authorizing the Debtor to abandon each of the real properties and segregated account
24 listed on Schedule A attached to the Declaration of Tony Akinsete.

25 Date: 5/3/10

26 By: ____/s/ Kenrick Young _____

27 KENRICK YOUNG

28 ATTORNEY FOR DEBTOR